

# Exhibit B

138TH DISTRICT COURT

# CASE SUMMARY

## CASE NO. 2021-DCL-01373

Juan Barrientes, Jr. vs. Home Depot U.S.A. Inc.

§  
§  
§  
§

Location: 138th District Court  
 Judicial Officer: Garcia, Gabriela  
 Filed on: 03/08/2021

## CASE INFORMATION

Case Type: Other Injury or Damage

Case Flags: Jury Fee Paid

## DATE

## CASE ASSIGNMENT

## Current Case Assignment

Case Number 2021-DCL-01373  
 Court 138th District Court  
 Date Assigned 03/08/2021  
 Judicial Officer Garcia, Gabriela

## PARTY INFORMATION

Plaintiff

Barrientes, Juan, Jr.

Lead Attorneys

CISNEROS, MICHAEL J.

Retained

956-682-1883(W)

Defendant

Home Depot U.S.A. Inc.

Ewert, Robert

Retained


214-722-7100(W)

## DATE


## EVENTS &amp; ORDERS OF THE COURT

## INDEX


03/08/2021 Original Petition (OCA)  
Original Petition For Divorce


03/08/2021  Efiled Original Petition Document  
Plaintiff's Original Petition

03/08/2021 Jury Fee Paid (OCA)  
Party: Plaintiff Barrientes, Juan, Jr.

03/09/2021  Citation Issued  
Party: Defendant Home Depot U.S.A. Inc.  
citation emailed to email@cisneroslawfirm.com. CCH

03/09/2021 Citation  
Home Depot U.S.A. Inc. served 03/11/2021

03/24/2021  Service Return  
Service Return- EXECUTED

04/12/2021  Original Answer  
Party: Attorney Ewert, Robert; Defendant Home Depot U.S.A. Inc.  
Defendant Home Depot U.S.A., Inc.'s Answer to Plaintiff's Original Petition

## DATE

## FINANCIAL INFORMATION

138TH DISTRICT COURT

## CASE SUMMARY

CASE No. 2021-DCL-01373

**Plaintiff** Barrientes, Juan, Jr.

Total Charges

355.00

Total Payments and Credits

355.00

**Balance Due as of 4/15/2021**

**0.00**

## CITATION – PERSONAL SERVICE – TRCP 99

## THE STATE OF TEXAS

2021-DCL-01373-B

Juan Barrientes, Jr. § IN THE 138TH DISTRICT COURT  
VS § OF  
Home Depot U.S.A. Inc. § CAMERON COUNTY, TEXAS

TO Home Depot U.S.A. Inc.  
Registered Agent: Corporation Service Company  
d/b/a a CSC-Lawyers Incorporating Service Company  
211 East 7th Street Suite 620  
Austin TX 78701-3218

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." TRCP. 99

You are hereby commanded to appear by filing a written answer to **Plaintiff's Original Petition** at or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation before the Honorable 138th District Court of Cameron County, at the Courthouse in said County in Brownsville, Texas. Said **Plaintiff's Original Petition** was filed in said court on **March 08, 2021**, in the above entitled cause.

2021-DCL-01373-B

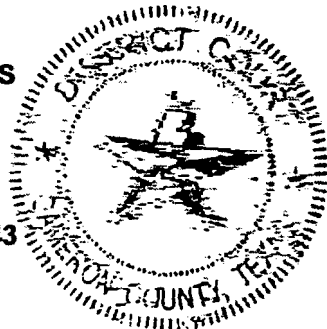
Juan Barrientes, Jr. vs. Home Depot U.S.A. Inc.

The nature of Petitioner's demand is fully shown by a true and correct copy of **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Brownsville, Texas, on this the 9th day of March, 2021.

ATTORNEY:  
**MICHAEL J. CISNEROS**  
00793509  
956-682-1883  
Lindberg Center  
312 Lindberg Ave  
McAllen TX 78501-2943



**Laura Perez-Reyes**  
District Clerk of Cameron County  
974 E Harrison St.  
Brownsville, Texas 78520  
Signed: 3/9/2021 11:02:34 AM

By: Christina E. Chavez  
**Christina Chavez, Deputy Clerk**

2021-DCL-01373-B  
138th District Court

Juan Barrientes, Jr. vs. Home Depot U.S.A. Inc.

## RETURN OF SERVICE

Executed when copy is delivered:

This is a true copy of the original citation, was delivered to defendant \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NAME/ADDRESS FOR SERVICE

\_\_\_\_\_  
Officer  
County, TX

By: \_\_\_\_\_ Deputy

## OFFICERS RETURN

Came to hand on the 9 day of MAR 2021, at 6:30 o'clock Pm and TRAVIS County, Texas, by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Original Citation at the following times and places, to wit:

NAME	DATE/TIME	PLACE/COURSE/DISTANCE FROM COURTHOUSE
<u>Home Depot U.S.A. Corp. Svc. Co.</u>	<u>3-11-21</u>	<u>2116 7th St. Austin, TX</u>

And not executed as to the defendant(s) \_\_\_\_\_

The diligence used in finding said defendant(s) being: \_\_\_\_\_

and the cause or failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of said defendant(s) being: \_\_\_\_\_

FEES:

SERVING PETITION/COPY \$ \_\_\_\_\_

TOTAL: \$ \_\_\_\_\_

\_\_\_\_\_  
Officer  
County, TX

By: \_\_\_\_\_ Deputy

Joe M...  
AFFIANT

## COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.


In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty or perjury and contain the following statement:

"My name is JOE MORENO, my date of birth is \_\_\_\_\_, my address is \_\_\_\_\_

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED in TRAVIS County, State of TX, on the 11 day of MAR, 2021.
2249 8/31/22  
ID Number/Expiration of Certification

Joe M...  
Declarant/Authorized Process Server

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY			
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p><b>HOME DEPOT U.S.A., INC.</b>  <b>c/o Corp. Service Co.</b>  <b>211 E. 7th St./Ste. 620</b>  <b>Austin, TX 78701</b></p>  <p>9590 9402 6195 0220 7946 63</p> <p>2. Article Number (Transfer from sender label)</p> <p><b>7020 1290 0001 2252 4652</b></p>		<p>A. Signature</p> <p><b>X</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p><b>Anna Mendoza</b> <input checked="" type="checkbox"/> Yes</p> <p>If YES, enter delivery address below: <input type="checkbox"/> No</p> <p><b>MAR 1 2021</b></p> <p>3. Service Type</p> <table border="0"> <tr> <td> <input type="checkbox"/> Adult Signature  <input type="checkbox"/> Adult Signature Restricted Delivery  <input type="checkbox"/> Certified Mail®  <input type="checkbox"/> Certified Mail Restricted Delivery  <input type="checkbox"/> Collect on Delivery  <input type="checkbox"/> Collect on Delivery Restricted Delivery </td> <td> <input type="checkbox"/> Priority Mail Express®  <input type="checkbox"/> Registered Mail™  <input type="checkbox"/> Registered Mail Restricted Delivery  <input type="checkbox"/> Signature Confirmation™  <input type="checkbox"/> Signature Confirmation Restricted Delivery </td> </tr> </table> <p><input type="checkbox"/> All Restricted Delivery</p>		<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery				
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt			

CAUSE NO.: 2021-DCL-01373

JUAN BARRIENTES JR.	§	IN THE _____ JUDICIAL DISTRICT
	§	Cameron County - 138th District Court
VS.	§	COURT OF
	§	
HOME DEPOT U.S.A. INC.	§	CAMERON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES JUAN BARRIENTES JR., hereinafter referred to as Plaintiff, and files this, his Original Petition against HOME DEPOT U.S.A. INC., hereinafter referred to as Defendant, and for cause of action will show the Court the following:

DISCOVERY CONTROL PLAN - BY RULE (LEVEL 3)

1. Plaintiff intends to conduct discovery under Level 3 as provided by Rule 190 of the Texas Rules of Civil Procedure.

CLAIM FOR RELIEF

2. Plaintiff is seeking monetary relief from Defendant in an amount that is more than \$250,000.00, but less than \$1,000,000.00, as compensation for his damages.

PARTIES

3. Plaintiff JUAN BARRIENTES JR. is an individual who resides in Brownsville, Cameron County, Texas.

4. Defendant HOME DEPOT U.S.A. INC. is a duly licensed corporation in Texas. Defendant HOME DEPOT U.S.A. INC. may be served with process by serving its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 East 7<sup>th</sup> Street, Suite 620, Austin Texas 78701-3218.

### VENUE AND JURISDICTION

5. The incident described hereinbelow or events giving rise to Plaintiff's claim against Defendant arose in Brownsville, Cameron County, Texas. Venue for this cause of action therefore lies in Cameron County, Texas.

6. The damages that Plaintiff is seeking from Defendant are within the jurisdictional limits of the Court. This Court therefore has jurisdiction of this cause of action.

### FACTS

7. On October 15, 2020, at approximately 5:00 p.m., Plaintiff was at Defendant's Home Depot store located on South Padre Island Highway in Brownsville, Cameron County, Texas for business purposes. Plaintiff was 67 years of age, a veteran of the United States military, and disabled. He parked his SUV in a handicap parking space in the store parking lot. A pickup was parked in the parking space to the left of the space he was parked in. Plaintiff exited his SUV, attempted to walk, tripped, fell, and suffered injuries and damages. A platform shopping cart was positioned in between Plaintiff's SUV and the pickup. The platform or deck of the shopping cart was positioned low, near the surface of the parking lot, making it difficult for Plaintiff to see the shopping cart as he exited his SUV and began walking. Further, the walking space in Plaintiff's parking space was limited due to the shopping cart being positioned in the parking space. The platform shopping cart and limited walking space in Plaintiff's parking space caused Plaintiff to trip, fall, and suffer injuries and damages. Before Plaintiff tripped and fell, Defendant failed to control, manage, secure, and retrieve the shopping cart and allowed the shopping cart to remain in the parking lot and Plaintiff's parking space unattended. In this regard, Defendant created the dangerous condition on its parking lot premises that caused Plaintiff to trip, fall, and suffer injuries and damages. Knowledge of the dangerous condition is therefore imputed on Defendant under Texas Premises Liability Law.



CAUSE OF ACTION BASED ON  
PREMISES LIABILITY LAW AND PROXIMATE CAUSE

8. At all time that is material to the incident described hereinabove and this case, Defendant was negligent under premises liability law in that: A. Plaintiff was a business invitee, B. Defendant owned, possessed, and/or controlled the premises where the incident described hereinabove occurred, C. A condition on the premises, the unattended platform shopping cart in Plaintiff's handicap parking space and the limited walking space the parking space, as described in the preceding paragraph, posed an unreasonable risk of harm, D. Defendant knew or reasonably should have known of the danger posed by the condition, and E. Defendant breached its duty of ordinary care by failing to adequately warn Plaintiff of the condition and failing to make the condition reasonably safe. This negligence by Defendant was the sole proximate cause or a proximate cause of the incident described hereinabove and of the injuries and damages suffered by Plaintiff, as set out hereinbelow.

DAMAGES

9. As a proximate cause of the negligence of Defendant in causing the incident described hereinabove, Plaintiff suffered injuries, suffered physical pain and mental anguish in the past, will suffer physical pain and mental anguish in the future, suffered physical impairment in the past, will suffer physical impairment in the future, suffered physical disfigurement in the past, will suffer physical disfigurement in the future, incurred medical expenses in the past, will incur medical expenses, lost wages in the past, and will incur a loss of earning capacity in the future. Plaintiff is seeking monetary relief from Defendant an amount that is more than \$250,000.00, but less than \$1,000,000.00, as compensation for his damages.

VICARIOUS LIABILITY

10. At all time that is material to the incident described hereinabove and this case, Defendant's employees acted within the course, scope, and authority of their employment

and/or agency relationship with Defendant. Defendant should therefore be held vicariously liable to Plaintiff for all of Plaintiff's damages alleged herein.

PREJUDGMENT AND POSTJUDGMENT INTEREST

11. Plaintiff further sues Defendant herein for prejudgment interest at the maximum rate allowed by law on those damages where such interest may be assessed and for postjudgment interest at the maximum rate allowed by law on all of Plaintiff's damages from the date of judgment until the judgment is paid in full.

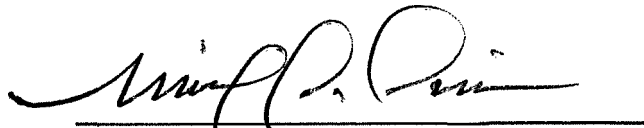
REQUEST FOR JURY AND JURY FEE

12. Plaintiff requests that the above-styled and numbered cause be tried to a jury and represents to the Court that the proper jury fee has been paid to the Clerk of this Court with the filing of Plaintiff's Original Petition.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final hearing, he have judgment against Defendant for all of his damages hereinabove alleged, for prejudgment and postjudgment interest, and for any and all other relief, both general and special, in law and in equity, and for all costs of Court in his behalf expended.

Respectfully Submitted,

THE CISNEROS LAW FIRM, L.L.P.  
312 Lindberg  
McAllen, Texas 78501  
Telephone No. (956) 682-1883  
Fax No. (956) 682-0132  
Email: email@cisneroslawfirm.com



MICHAEL J. CISNEROS  
State Bar No. 00793509  
ARTURO CISNEROS  
State Bar No. 00789224  
Attorneys for Plaintiff

**CAUSE NO. 2021-DCL-01373**

<b>JUAN BARRIENTES JR.,</b>	§	<b>IN THE 138<sup>TH</sup> JUDICIAL DISTRICT</b>
	§	
<b>Plaintiff</b>	§	
	§	
<b>vs.</b>	§	<b>COURT OF</b>
	§	
<b>HOME DEPOT U.S.A., INC.</b>	§	
	§	
<b>Defendant.</b>	§	<b>CAMERON COUNTY, TEXAS</b>

**DEFENDANT HOME DEPOT U.S.A., INC.'S ANSWER TO**  
**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Home Depot U.S.A., Inc., ("Home Depot") Defendant in the above-styled and numbered cause of action and files its Answer to Plaintiff's Original Petition and would respectfully show the Court the following:

**I. General Denial**

Pursuant to Texas Rule of Civil Procedure 92, Defendant generally denies each and every material allegation contained in Plaintiff's Original Petition and all amendments and/or supplements thereto and demands strict proof thereof by a preponderance of the evidence, and if necessary, also the standard of clear and convincing evidence on those legal theories where clear and convincing evidence is the correct standard of proof.

**II. Affirmative Defenses**

Defendant further avers that the injuries and damages complained of by Plaintiff were proximately caused by the failure of Plaintiff to do that which an ordinarily prudent person would have done under the same or similar circumstances or to do that which such a person would not have done under the same or similar circumstances.

Defendant further pleads that Plaintiff failed to mitigate his damages.

Defendant would show that it is not responsible for medical conditions and damages which existed before this incident and/or medical conditions and damages, if any, which were not proximately caused by this accident.

Defendant further pleads that Plaintiff's claims for medical expenses are subject to limitations, reductions and offsets including the recovery of medical or healthcare expenses which are limited to the amount actually paid or incurred. Tex. Civ. Prac. & Rem. Code. § 41.0105.

### **III. Jury Demand**

Defendant hereby makes a demand for a jury trial in accordance with the Texas Rules of Civil Procedure.

### **IV. Prayer**

WHEREFORE, PREMISES CONSIDERED, Defendant Home Depot USA, Inc. prays that Plaintiff take nothing by reason of his suit and that the Defendant be dismissed with their costs, and for such other relief, both general and specific, at law or in equity, to which Defendant may be justly entitled.

Respectfully submitted,

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

/s/ Robert A. Ewert

**Robert A. Ewert**

Texas Bar No.: 24036540

2100 Ross Ave., Suite 2000

Dallas, Texas 75201

Phone: (214) 722-7100

Fax: (214) 722-7111

[Robert.Ewert@lewisbrisbois.com](mailto:Robert.Ewert@lewisbrisbois.com)

**ATTORNEYS FOR DEFENDANT,  
HOME DEPOT U.S.A., INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record pursuant to the Texas Rules of Civil Procedure on this the 12th day of April, 2021:

**Counsel for Plaintiff**

Michael J. Cisneros  
THE CISNEROS LAW FIRM, L.L.P.  
312 Lindberg  
McAllen, TX 78501

/s/ Robert A. Ewert  
Robert A. Ewert